

SUPPORT TO IMPROVING BUSINESS AND INVESTMENT ENVIRONMENT (SIBE)

Terms of Reference (ToR) for Recruitment of Short-Term Expert (STE)	
Title of Assignment:	Review the existing 2015 Investment Policy and Develop a Lesotho Investment Policy for Sustainable Development and a Lesotho Incentives Framework
Reference no.:	TOR
Activity Code:	
Responsible SADC SPO:	Mario Lironel, SPO Finance and Investment, SIBE Task Manager, Directorate Finance, Investment and Customs
Date of issue:	9 March 2023
1. Background	
1.1 Background SADC	<p>The Southern African Development Community (SADC) was formed in 1980 as the “Southern African Development Co-operation Conference” (SADCC) by nine of the current Member States. On 17 August 1992 in Windhoek, Namibia, the SADCC was transformed into SADC with the signing of the SADC Declaration and Treaty. SADC currently has 16 Member States: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, United Republic of Tanzania, Zambia and Zimbabwe. SADC has a combined population of approximately 380 million and a Gross Domestic Product (GDP) of more than 780 billion (2021).</p> <p>SADC has a long-term Vision of a regional community that has a common future and that will ensure social-economic well-being, improvement of the standards of living and quality of life, freedom and social justice and peace and security for the people of Southern Africa, as enshrined in the Treaty. In particular, by 2050, SADC envisions a peaceful, inclusive, middle to high income industrialised region, where all citizens enjoy sustainable economic well-being, justice and freedom. This SADC Vision 2050 is expressed in three Pillars: Industrial Development and Market Integration; Infrastructure Development in Support of Regional Integration; and Social and Human Capital Development, and built on a firm foundation of Peace, Security and Good Governance.</p> <p>The Treaty aims are implemented through agreements including Protocols that are legally binding international agreements committing the Member States to the objectives and specific procedures stated within them. Currently, SADC has a number of Protocols, including the Protocol on Finance and Investment (2006, which was amended in 2016); the Protocol on Trade (1996); the</p>

	<p>Protocol on Mining (1997); the Protocol on Trade in Services (2012); and the Protocol on Industry (2019).</p> <p>Through these protocols, the SADC envisage to eliminate barriers to intra SADC trade, eliminate import and export duties, quantitative restrictions on exports and imports and all other non-tariff barriers to trade, and remove any obstacles to the free movement of labour, goods and services.</p> <p>In particular, the Finance and Investment Protocol intends to increase cooperation, coordination and management of macroeconomic, monetary and fiscal policies and establishment of macroeconomic stability as a precondition to sustainable economic growth and for the creation of a monetary union in the Region. This would be achieved through coordination amongst central banks on investments and exchange controls, harmonization of legal and operational frameworks, facilitation of regional foreign direct investments, cooperation in regional and capital markets and establishment of a regional clearing and settlement system amongst others. The Protocol on Finance and Investment is an important regional investment facilitation tool as it provides investors with the ability to, among other things, consider tax regimes in making their investment decisions.</p> <p>There are additional strategic documents that guide SADC's activities towards regional integration including the Regional Indicative Strategic Development Plan (RISDP 2020-2030) which is underpinned by the SADC vision 2050, and set out the strategic objectives to be accomplished and the foundation of the integration.</p> <p>The RISDP outlines the need for promoting the development of sound investment policies in Member States, to improve the investment climate and enhance the levels of intra-SADC and foreign direct investment in the region. This objective is supported by a similar objective aimed at enhancing cooperation in taxation and related matters, including tax information sharing; capacity building for Tax Administrations; and to develop common approaches and policies to the application and treatment of tax incentives and negotiation of tax agreements. This is in recognition that investors, among other things, consider tax regimes in making their investment decisions. The RISDP also highlights the enhancement of monetary cooperation to reform the SADC banking system and harmonization of banking regulatory frameworks. Furthermore, development and strengthening of the financial and capital markets are critical to facilitate free movement of capital and mobilization of financial resources for the promotion of growth and development in the region.</p> <p>The Community is supported by the SADC Secretariat that is located in Gaborone, Botswana. SADC is a consensus-based organisation, and the Secretariat is the principal executive institution</p>
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	of SADC. For further information see www.SADC.int .
1.2 Background - SIBE Programme	<p>The Support to Improving Investment and Business Environment (SIBE) Programme is a five-year Programme, implemented by the Finance, Investment and Customs (FIC) Directorate and financed to the tune of €14 million by the EU under the 11th European Development Fund (EDF). Financing Agreement and the Contribution Agreement were signed in June 2019 and August 2019, respectively. The Programme will be implemented over a period of 55 months from the date of signature of the Agreements. The Programme is implemented by the SADC Secretariat and covers all the 16 SADC Countries.</p> <p>The overall objective of the Programme is to achieve sustainable and inclusive growth and support job creation through the transformation of the SADC region into an investment zone and promoting intra-regional investment and Foreign Direct Investment (FDI) in the SADC region, in particular for Small and Medium Enterprises (SMEs).</p> <p>The specific objective of the SIBE Programme is to develop the SADC region into an investment zone, promoting intra-regional investment and FDI in the SADC region, in particular for SMEs.</p> <p>The Programme focuses its support on the following Results Areas (RAs):</p> <p>RA1 - An enabling investment policy framework across SADC Member States is supported</p> <p>This result area covers the following main activities:</p> <ul style="list-style-type: none"> i. Set-up a dialogue at regional level on improving investment and business environment in SADC; ii. Provide ad-hoc support to Member States in developing structured public-private dialogue mechanisms for improving investment and business environment in SADC; iii. Harmonise SADC Member States' investment and business environment related laws and regulations; and iv. Enhance the SADC Tax regime in support of a conducive investment and business environment. <p>RA2 - Enhanced integration of financial markets in the SADC region is promoted</p> <p>Under this Result area, the programme will assist in:</p> <ul style="list-style-type: none"> i. Developing financial markets in the SADC region ii. Developing policies and strategies to address risks to financial stability at regional and national levels; and iii. Strengthening SADC Real Time Gross Settlement System (SADC-RTGS), Committee of Insurance, Securities and Non-

	<p>Banking Authorities (CISNA), Committee of SADC Stock Exchanges (CoSSE), the SADC Committee of Central Bank Governors (CCBG) and the SADC Banking Association (SADC BA).</p> <p>RA3 - Enhanced financial inclusion is supported</p> <p>This Result Area focuses on developing proper and specific action plans aimed at reducing costs of remittances and developing financial products for SMEs. In particular, SIBE will support the following main activities:</p> <ul style="list-style-type: none"> i. Develop and implement Financial Inclusion Strategies; ii. Identify key financial inclusion regulatory areas for harmonisation and capacity building; and iii. Monitor Status of and Progress on Financial Inclusion in the Region. <p>The Programme management structure is composed by a Task Manager, the Senior Programme Officer – Finance and Investment under the operational oversight and guidance of the Director of Finance, Investment and Customs (FIC).</p> <p>The SADC Secretariat has contracted a consortium composed of FinMark Trust, GFA Consulting Group and Southern Africa Trust, under a Service Contract for a Technical Assistance including the provision of one Long Term Expert to coordinate and manage the implementation of activities across the 3 result areas, and a pool of Long and Short-Term Experts.</p> <p>The Terms of Reference (ToRs) is a request for the provision of consultancy services to the SIBE Programme to carry out an assignment on: Review the existing 2015 Investment Policy and Develop a Lesotho Investment Policy for Sustainable Development and a Lesotho Incentives Framework.</p>
<p>1.3 Background - this Assignment</p>	<p>Under the SIBE Programme, the Government of Lesotho requested the support from the SADC Secretariat to develop a National Action Programme on Investment (NAPI) for the country. Responding to this request, the Secretariat accorded this support by recruiting a Short Term consultant who develop the Lesotho NAPI with the participation of key stakeholders from public and private sector.</p> <p>The development of the Lesotho NAPI is aligned with the SADC Investment Policy Framework (IPF) which was developed to address the need for a more inclusive growth path, with private investment playing a potentially more important role in creating jobs, promoting economic diversification and environmental sustainability as well as infrastructure development and broad-based entrepreneurship, including for Micro, Small and Medium Enterprises (SMMEs), women entrepreneurs and firms in rural areas.</p> <p>Establishing a conducive environment for domestic and foreign investment is recognised as a major tool for sustainable growth,</p>

	<p>development and poverty reduction in the region. The SADC Protocol on Finance and Investment (FIP) specifically calls for an investment policy strategy to accompany the regional integration objectives of SADC. It requires Member States to co-ordinate their investment regimes and co-operate to create a favourable investment climate within the region. Annex I of the Protocol, on Co-operation on Investment, further refers to the need for harmonisation of investment regimes with the objective of developing the region into an investment zone.</p> <p>Furthermore, the SADC Investment Policy Framework offers Member States a framework for the formulation and operationalisation of sound investment policies that can promote broad-based economic growth. Driven by Member States, it has been designed as an action-oriented programme that provides a policy roadmap for reforms in a non-prescriptive manner, promoting peer learning and sharing of good practices.</p> <p>The aim of the SADC IPF is to leverage a collective effort among Member States to advance reforms that can be conducive to attracting higher and better levels of investments to support the industrialisation and development process of the region.</p> <p>The IPF identified five action areas as key:</p> <ol style="list-style-type: none"> 1. Action area 1: Promoting a Coherent and Transparent Investment Environment 2. Action area 2: Ensuring Market Access and Competition 3. Action area 3: Providing Security and Protection of Investors' Rights 4. Action area 4: Ensuring Responsible and Inclusive Investment for Development 5. Action area 5: Promoting Regional and International Cooperation <p>Although it is a regional programme, the implementation of the IPF needs to be done at national level to facilitate a transition of activity from Regional-level to the Member State-level.</p> <p>It is worth noting that Under the Action Area 4 of the aforesaid Lesotho NAPI, related to <i>“Ensuring Responsible and Inclusive Investment for Sustainable Development”</i>, it was recommended among key priorities, to review the existing 2015 Investment Policy and the Development of the Lesotho comprehensive Investment Policy based on the best practices.</p> <p>It is in this context that the Government of Lesotho through its letter dated 28 November 2022, requested the SADC Secretariat support to review the Lesotho 2015 Investment Policy and develop a comprehensive Investment Policy. The Government also requested to be support with a development of an investment incentives Framework.</p>
2. Description of the Assignment	
2.1 Global	The overall objective of this assignment is to establish a conducive

objective	environment for domestic and foreign investments to contribute to sustainable and inclusive development and poverty reduction in Lesotho.
2.2 Specific objectives	<p>The specific objectives of the assignment are as follows:</p> <ul style="list-style-type: none"> (i) Making Lesotho responsive and attractive site for investment from within and outside of the region; (ii) Rationalising the investment incentives; and (iii) Improving business competitiveness in Lesotho's economy.
2.3 Requested services	<p>Following tasks are envisaged in this assignment:</p> <ul style="list-style-type: none"> (i) Assess best practices in investment policy and Incentives frameworks at SADC region as well as continental and international levels (ii) Review the existing 2015 Lesotho Investment Policy and Incentives frameworks <p>The review of 2015 Lesotho investment Policy and Incentives Framework(s) should come up with the gaps to be addressed.</p> <ul style="list-style-type: none"> (iii) Develop a structured Lesotho Investment Policy for Sustainable Development (iv) Develop a structured Lesotho Incentives Framework <p>The services will be delivered in five separate, but interrelated Parts as described in section 2.6 below. It should be noted that the timings and locations below are indicative and may be subject to change.</p>
2.4 Deliverables	<p>The main expected deliverables of this assignment are:</p> <ul style="list-style-type: none"> i. An Inception Report outlining the priorities for reforms among the key action areas, items and suggested actions; ii. A Data Collection Report with key information collected from stakeholders on investment policy and incentives framework(s); iii. A Data Analysis Report containing the gaps to be addressed on: <ul style="list-style-type: none"> - Investment Policy and - Incentives framework(s) iv. A structured draft Lesotho Investment Policy for sustainable Development and a structured draft Lesotho Incentives Framework both to be validated by the key stakeholders; v. Final Lesotho Investment Policy for Sustainable Development and Final Lesotho Incentives Framework, based on the

	<p>outcomes of the validation workshop; and</p> <p>vi. An Executive Summary of the above two main deliverables documents, in PowerPoint format for presentation purposes.</p> <p>Note: All deliverables will be the property of the SADC Secretariat.</p>
2.5 Management	<p>The STE will report to and will be under the day-to-day supervision of the SIBE Programme Coordinator and Task Manager/SPO Finance and Investment.</p>
2.6 Methodology	<p>The assignment will broadly entail:</p> <ol style="list-style-type: none"> 1. Part 1: Inception and planning (10 STE days): During this phase the STE is also expected to become conversant with: <ol style="list-style-type: none"> i. the SADC Vision 2050 and RISDP 2020-2030; ii. the SADC Protocol on Finance and Investment; iii. the SADC Industrialisation Strategy and Roadmap (2015-2063) and its Action Plan; iv. The SADC Investment Policy Framework; and v. The SADC Business and Investment Promotion Strategy 2. Part 2: Data collection (25 STE days), including the following tasks: <ol style="list-style-type: none"> i. undertaking desk review of key documentation related to the investment environment in the country, strategic documents, existing studies etc.; ii. undertaking consultations with relevant stakeholders including think-tanks, officials of Ministries, Private Sector and International Cooperating Partners. This will be done to gather the necessary primary information, partly to verify the data collected from the documentation review and also to fill the gaps that emerge from the literature review; iii. participating in virtual SADC Investment Sub-Committee meetings to gather other eventual comments and recommendations on improvements to the NAPI document. 3. Part 3: Data analysis and submission of the draft reports of the assignment in line with the requested services listed above (20 STE days). 4. Part 4: Development (30 STE days) and validation (5 STE days) by main stakeholders of the following: <ol style="list-style-type: none"> (i) a structured draft of Lesotho Investment Policy for Sustainable Development; and (ii) a structured Lesotho Incentives Framework 5. Part 5: Submission of a final Report with the list of all the stakeholders including their contact details; the Lesotho Investment Policy for Sustainable Development and the Lesotho Incentives Framework (10 STE days).

3. Resources allocated					
3.1 Resources from the Technical Assistance contract:					
	Part 1	Part 2	Part 3	Part 4	Part 5
Up to 100 STE days	10	25	20	35	10
Up to per diem days (approximate)	0	5	0	0	3
Mobilisation travel	0	1	0	0	1
Regional travel	None	None	None	None	None
	The STE will be facilitated to engage with stakeholders virtually. The STE is expected to arrange transport at his/her own cost in the locations of the Assignment.				
3.2 Other related resources allocated from the SIBE budget					
Translation of documents	The translation of deliverables will be arranged by SADC Secretariat separately. It should be noted that a minimum of 5 weeks is required for translation.				
Interpretation	Interpretation, when/if necessary, will be arranged by SADC Secretariat separately.				
	The STE is expected to utilise his own laptop computers, cellular telephones and internet services.				
3.3. Expert profile					
Qualifications and skills	<ul style="list-style-type: none">• At least a Master’s Degree in Investment Law, Economics, Business Administration, Development Studies, Banking, or Development Finance or any other related area from a recognised institution. A first-level university degree together with at least 10 years qualifying experience may be accepted in lieu of the advanced university degree;• Fluency in English;• Excellent computer skills including knowledge of Microsoft Office packages such as Power Point and Microsoft Word.				
General professional experience	<ul style="list-style-type: none">• Minimum of 7 years of general professional experience in investment area or private sector development;• At least 5 years of experience within a public or private sector, regional or international organization.				
Specific	<ul style="list-style-type: none">• At least 5 years of experience in at least one of the following:				

professional experience	<p>economic policy development, Business/investment facilitation and promotion, investment law, private sector development preferably in Lesotho;</p> <ul style="list-style-type: none"> • At least 3 years of practical experience in economic, business, investment, or legal related field where economic research and analysis are a main feature of the work required; • Knowledge of the issues and processes involved in regional economic integration, preferably in SADC region; • Ability to facilitate the implementation of capacity building and training programmes to enhance capacity in investment promotion or private sector development.
4. Location duration and planning	
4.1 Location of work	The Assignment will be carried out from the STE's home base.
4.2 Duration	<p>The indicative expected start date is 13 April 2023</p> <p>The indicative expected end date is 23 October 2023</p>
4.3 Working week	<p>The working week is from Monday to Friday, except in the case of official holidays or SADC closure days as recorded in Annex 1.</p> <p>Weekends are not normally considered as working days unless specifically requested and confirmed in advance in writing by the SADC Secretariat.</p> <p>However, due to the timing of the validation workshop some weekend dates may be utilised in Part 4.</p>
5. Reporting	
5.1 Language	The Assignment language is English, and all reporting shall be in English.

<p>5.2 Progress reporting</p>	<p>Submission and approval procedure for inception and progress reports</p> <p>All written deliverables shall be submitted in soft copy by email, with Arial font size 12, in a format provided by FinMark Trust to the STE.</p> <p>The soft copy must not be in PDF format preventing formatting.</p> <p>All reports will be submitted to FinMark Trust through the SIBE Programme Coordinator for quality control; after his review for preliminary endorsement, the SIBE Programme Coordinator will then submit them to the RA Manager and SIBE Task Manager with recommendation for approval. Comments to the reports, if any, will be communicated in writing to the STE within 10 working days of receipt of each report.</p> <p>Part 1: Inception report (numbered/STE/IR) and presentation</p> <p>The STE will complete a report and submit it by the end of Part 1. The Report will include a methodology for the Assignment.</p> <p>At the end of Part 1 the STE will make a brief PowerPoint presentation of the report to the Secretariat.</p> <p>Note: this presentation is a deliverable and should be annexed to the report. The inception report will be submitted by the STE to FinMark Trust, copied to the Secretariat. FinMark Trust will formally submit it to the SADC Secretariat (Task Manager) for approval.</p> <p>After submission, the Secretariat will consider the report and provide any feedback within 5 working days.</p> <p>Parts 2, 3 and 4– Progress report (numbered/STE/PR)</p> <p>At the End of Parts 2 and 3, the STE will submit progress reports within 2 working days at the end of each Part; and the draft Lesotho Investment Policy for sustainable Development and the Lesotho draft Incentives Framework before the validation workshop.</p>
<p>5.3 End of Assignment Reporting</p>	<p>Part 5 - End of Assignment Report (EoAR) and presentation</p> <p>The STE will submit the EoAR for approval at the completion of the Assignment. The report shall be submitted in the format provided and will include the following:</p> <ul style="list-style-type: none"> • An Executive Summary of the whole assignment; • List of activities carried-out during the assignment; • Methodology/Discussion of key issues; • Main Conclusions and Lessons Learned; • Recommendations for further support to the beneficiary;

	<ul style="list-style-type: none"> • Key Annexes, such as all deliverables produced, including the completed updated validation workshop report • In addition to the report at the end of Part 4, the STE will provide a PowerPoint presentation to the Secretariat of the EoAR on the last day of the assignment (which will be by way of remote link through Zoom or such other e-platform to be suggested by SADC Secretariat). The presentation is a deliverable and should be annexed to the report. <p>EoAR Submission and approval procedure:</p> <ul style="list-style-type: none"> ▪ After end of assignment, EOAR will be submitted by email to the Consortium through the SIBE Programme Coordinator/Investment Expert for quality control; then, it will be submitted to the RA Manager for technical comment for the STE. Technical comments will be issued within 10 working days. ▪ The STE shall address all the technical comments within 15 calendar days of receiving comments and submit the final EoAR to SADC for final technical and administrative approval. If no comments are received from SADC within one month since submission, the EOAR will be deemed satisfactory. ▪ Upon acceptance (or if the one-month period has elapsed since submission without comments being received), the EoAR shall be submitted to the RA Manager and the SIBE Task Manager for administrative approval. ▪ The Assignment will not be considered to be complete until the approval by the SIBE Task Manager of the EoAR has been obtained. ▪ The EoAR shall be delivered in soft copy. The soft copy shall include deliverables produced as annexes. The soft copy must not be in pdf format preventing formatting.
6. Administrative Information	
Timesheets	<p>The STE will complete a monthly Timesheet according to the template provided by TAT, recording days worked and outputs.</p> <p>Fees will be due only for working days recorded in the Timesheets that are countersigned by:</p> <ul style="list-style-type: none"> - SIBE Programme Co-ordinator and Team Leader; - SIBE RA Manager (Programme Officer Investment); and - The SIBE Task Manager. <p>The monthly Timesheet should be accompanied by the monthly Progress Report, and both should be submitted by e-mail for review and approval.</p> <p>Note: Travel days for mobilisation and demobilisation are not</p>

	fee-paying days. Travel days for mission-related travels between SADC countries will be recorded as working days and will be fee paying days.		
Travel approval forms	If regional travel is required, the STE will complete a SIBE travel approval form which will be handed to the SIBE Task Manager for processing.		
Travel support documents	Boarding passes of regional and mobilisation trips, copies of hotel invoices and other support documents will be handed over to FinMark Trust through the Programme Coordinator.		
7. Endorsement			
SIBE Programme Coordinator	RA Manager	Task Manager	Director-Finance, Investment and Customs
Mike Nyamazana	Lisivololona Razanajaholy	Mario Lironel	S.L. Mtonakutha
Signature: 	Signature: 	Signature: 	Signature:
Date:	Date:	Date:	Date

ANNEXES TO TOR 029/KRA1.3/AWP5

ANNEX 1: Experts scoring grid

ANNEX 2: Botswana official holiday 2015/15 (non-working/fee days)

ANNEX 3: Gantt chart

Usual Annex 4, financial approval by SADC, is missing.

ANNEX 1
Experts scoring grid

Qualifications and Experience STE1	Points*
Qualifications and skills	20
At least a Master's Degree in Investment Law, Economics, Business Administration, Development Studies, Banking, or Development Finance or any other related area from a recognised institution. A first-level university degree together with at least 10 years qualifying experience may be accepted in lieu of the advanced university degree	10
Fluency in English.	5
Excellent computer skills including knowledge of Microsoft Office packages such as Power Point and Microsoft Word	5
General professional experience:	30
Minimum of 7 years of general professional experience in investment area or private sector development	15
At least 5 years of experience within a public or private sector, regional or international organization	15
Specific professional experience:	50
At least 5 years of experience in at least one of the following: economic policy development, Business/investment facilitation and promotion, investment law, private sector development preferably in Lesotho	20
At least 3 years of practical experience in economic, investment, or legal related field where economic research and analysis are a main feature of the work required	15
Knowledge of the issues and processes involved in regional economic integration, preferably SADC region	10
Ability to facilitate the implementation of capacity building and training programmes to enhance capacity in investment promotion or private sector development	5
Score	100

ANNEX 2: Botswana official holidays 2023-2024¹

Day	Date	Occasion
Saturday	1 January 2023	New Year's Day
Monday	3 January 2023	Public Holiday
Tuesday	4 January 2023	Public Holiday
Friday	15 April 2023	Good Friday
Saturday	16 April 2023	Public Holiday
Sunday	17 April 2023	Easter Sunday
Monday	18 April 2023	Easter Monday
Sunday	1 May 2023	Labour Day
Monday	2 May 2023	Public Holiday
Thursday	26 May 2023	Ascension Day
Friday	1 July 2023	Sir Seretse Khama Day
Monday	18 July 2023	President's Day
Tuesday	19 July 2023	Public Holiday
Friday	30 September 2023	Botswana Day
Saturday	1 October 2023	Public Holiday
Sunday	25 December 2023	Christmas Day
Monday	26 December 2023	Boxing Day
Tuesday	27 December 2023	Public Holiday
Sunday	1 January 2024	New Year's Day
Monday	2 January 2024	Public Holiday

¹ These dates are indicative and subject to change or confirmation by the Government of the Republic of Botswana.

ANNEX 3: Gantt Chart

Task ID	Task Description	Duration (days)	Start Date	End Date	APRIL 23	MAY 23	JUNE 23	JULY 23	AUG 23	SEPT 23	OCT 23
1	Inception period	10	13 /4/23	4/5/23	X	X					
2	Data collection and consultations	25	5/5/23	14/6/23		X	X				
3	Data analysis and submission of Report	20	15/6/23	14 /7/23			X	X			
4	Development of structured draft Investment Policy and Incentives Framework	30	17/7/23	29/8/23				X	X		
5	Translation of documents	5 weeks									
6	Validation of Investment Policy and Incentives Framework	5	2/10/23	6/10/23							X
7	Submission of the revised and final report Investment Policy and Incentives Framework	10	9/10/23	23/10/23							X
	Total (days)	100									